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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/605,543	BUCKS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Isaac N Hamilton	3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. ☒ This communication is responsive to 10/07/2003.
- 2. ☒ The allowed claim(s) is/are 1-20.
- 3. ☒ The drawings filed on 07 October 2003 are accepted by the Examiner.
- 4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  - 1. ☐ Certified copies of the priority documents have been received.
  - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- 5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- 6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

- 7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>07/09/2004</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                 | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

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### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's representative, Mr. Gary Hartman, on 2/22/05.

The application has been amended as follows:

Paragraph [0023], line 4, "upper frame member 32" has been changed to --upper frame member 42--;

Paragraph [0017], line 19, "tube opening 34" has been changed to --tube opening 54--.

The following is an examiner's statement of reasons for allowance: the claims define an apparatus for cutting a food product which travels down a passage that has a cross-sectional shape defined by two offset, overlapping diameters, and forced to one side of the passage by water jets which apply a force to the food product, then the food product is cut by a horizontal cutting means. The apparatus also has a safety device which stops the current flow to the apparatus while the clamping means for the housing of the blade is removed. Bellerose (4,546,684) teaches an apparatus for cutting a food product which travels down a passage and is

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cut by a horizontal cutter, but does not teach a cross-sectional shape defined by two offset, overlapping diameters, and does not teach means for applying a force to the food product, and does not teach a safety device that stops the current flow. Armaki et al (3,964,873) teaches a passage that has a cross-sectional shape defined by two offset, overlapping diameters, but does not teach an apparatus for cutting a food product. Morin (3,998,254) teaches a safety device which stops the current flow to a sawing apparatus while the housing is removed from the sawing apparatus, but does not teach cutting a passage, and does not teach water jets, and does not teach a horizontal cutting means, and does not teach a clamping means for the housing of the blade. Kawakami (JP 63222038 A) teaches an apparatus that has a gas jet that forces a product to one side of a passage, but does not teach an apparatus for cutting food product which travels down a passage that has a cross-sectional shape defined by two offset, overlapping diameters, and does not teach water jets, and does not teach a horizontal cutting means, and does not teach a safety device to stop current flow. It would not have been obvious to use the references in combination with other prior art teachings to meet the claim limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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February 22, 2005

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700